

HB 74 -- CONSUMER LEGAL FUNDING MODEL ACT

SPONSOR: McGaugh

This bill establishes the Consumer Legal Funding Model Act that requires all consumer legal fundings to meet certain specified requirements.

These provisions must not be construed to restrict the exercise of powers or the performance of the duties of the Missouri Attorney General that he or she is authorized to exercise or perform by law.

The bill specifies that a contingent right to receive an amount of the potential proceeds of a legal claim is assignable by a consumer. These provisions must not be construed to cause any consumer legal funding transaction conforming to these provisions to be deemed a loan or subject to any of the provisions governing loans contained in the laws of this state and is not subject to any other statutory or regulatory provisions governing loans or investment contracts.

Only attorneys' liens related to the underlying legal claim, Medicare, or other statutory liens related to the underlying legal claim can take priority over any lien of the civil justice funding company.

An attorney or law firm retained by the consumer in the legal claim must not have a financial interest in the consumer legal funding company offering consumer legal funding to that consumer. Any attorney who has referred the consumer to his or her retained attorney must not have a financial interest in the consumer legal funding company offering consumer legal funding to that consumer.

Any communication between the consumer's attorney in the legal claim and the consumer legal funding company as it pertains to the consumer legal funding cannot limit, waive, or abrogate the scope or nature of any statutory or common-law privilege, including the work-product doctrine and the attorney-client privilege.

A consumer legal funding company may not engage in the business of consumer legal funding in this state unless it has first registered in the manner prescribed by the Department of Insurance, Financial Institutions and Professional Registration and contains the information the department requires to make an evaluation of the character and fitness of the applicant company.

Upon investigation, the department may issue a certificate of registration if it finds that the character and fitness of the applicant company along with the officers and directors of the

applicant company warrant the belief that the company will be operated honestly and fairly within the purposes of these provisions.

If a bond is required by the department, each registrant must, at the time of filing the application, file with the department a bond satisfactory to the department in an amount not to exceed \$50,000. In lieu of the bond, at the option of the registrant, the registrant may post an irrevocable letter of credit. The terms of the bond must run concurrent with the period of time during which the registration will be in effect.

Upon written request, the applicant is entitled to a hearing if the department has notified the applicant in writing that the application has been denied or if the department has not issued a registration within 60 days after the application was filed.

A consumer legal funding company that registered with the department between the effective date of these provisions and six months thereafter may engage in consumer legal funding while the company's registration is waiting approval by the department. All funding agreements prior to the effective date of these provisions are not subject to the terms of these provisions.

A consumer legal funding company is prohibited from using any form of consumer legal funding contract in this state unless it has been filed with the department in accordance with the filing procedures set forth by the department.

This bill is similar to HB 1706 (2016).